MONTANA LEGISLATIVE HISTORY

Chapter 174 1999

Bill H 154 S _____ Original bill & history ___C

H. Committee on Business & Labor			S. Committee on Business & Industry		
Hearing Date(s)	1-20	___C	Hearing Date(s)	3-4	___C
	_____	___C		3-8	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	1-20	___C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

4/20 Chapter Number Assigned
Chapter Number 336
Effective Date: 10/01/1999 - All Sections

HB 154 Introduced by Gallus *LC0430 Drafter: Maly*

Clarify the Prohibition Against Offering Any Form of Incentive or Rebate to Pay All or Part of a Casualty or Property Insurance Deductible Related to the Sale, Repair, or Replacement of Automobile Glass;...

By Request of State Auditor

12/23	Introduced		
1/04	1st Reading		
1/04	Referred to Business and Labor		
1/20	Hearing		
1/21	Committee Executive Action--Bill Passed as Amended	18	0
1/21	Committee Report--Bill Passed as Amended		
1/23	2nd Reading Passed	80	18
1/25	3rd Reading Passed	79	21
	Transmitted to Senate		
1/27	Referred to Business and Industry		
3/04	Hearing		
3/09	Committee Executive Action--Bill Concurred	6	0
3/09	Committee Report--Bill Concurred		
3/11	2nd Reading Concurred	42	8
3/12	3rd Reading Concurred	43	6
	Returned to House		
3/12	Sent to Enrolling		
3/13	Returned from Enrolling		
3/15	Signed by Speaker		
3/16	Signed by President		
3/16	Transmitted to Governor		
3/25	Signed by Governor		
3/27	Chapter Number Assigned		
	Chapter Number 174		
	Effective Date: 10/01/1999 - All Sections		

HB 155 Introduced by Pavlovich *LC0369 Drafter: Maly*

Prohibit the Cancellation or Nonrenewal of Property and Casualty Insurance on the Basis of a Single Loss Unless the Insurer Has Previously Disclosed this Criterion to the Insured;...

By Request of State Auditor

12/23	Introduced		
1/04	1st Reading		
1/04	Referred to Business and Labor		
1/19	Hearing		
1/22	Committee Executive Action--Bill Passed as Amended	14	4
1/23	Committee Report--Bill Passed as Amended		
1/27	2nd Reading Passed	78	20
1/28	3rd Reading Passed	83	17
	Transmitted to Senate		

HOUSE BILL NO. 154

INTRODUCED BY GALLUS S

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PROHIBITION AGAINST OFFERING ANY FORM OF INCENTIVE OR REBATE TO PAY ALL OR PART OF A CASUALTY OR PROPERTY INSURANCE DEDUCTIBLE RELATED TO THE SALE, REPAIR, OR REPLACEMENT OF AUTOMOBILE GLASS; MAKING THE PROHIBITION APPLICABLE TO AUTOMOBILE REPAIR BUSINESSES; DEFINING A VIOLATION OF THE PROHIBITION AS AN UNFAIR TRADE PRACTICE AND RENDERING THE VIOLATOR SUBJECT TO INSURANCE FRAUD STATUTES; AND AMENDING SECTION 30-14-225, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-14-225, MCA, is amended to read:

"30-14-225. **Prohibited practices -- advertising allowed -- violations**. (1) A person engaged in the sale, repair, or replacement of automobile glass or in the business of automobile repair may not:

(a) advertise, promise to provide, or offer any coupon, credit, or rebate to pay all or part of an insurance deductible under a casualty or property insurance policy, including any incentive to purchase automobile glass or automobile repairs offered to the customer in which the customer, concurrent with the purchase of automobile glass or automobile repairs, receives cash or other valuable consideration; or

(b) pay a sum or incentive to an individual or entity for directing glass replacement or repair or the purchase of a glass product.

(2) A person or association of persons engaged in the sale, repair, or replacement of automobile glass may advertise services as to quality, service, and safety.

(3) A glass broker, as defined in 33-18-223, may not manage, handle, or arrange automobile glass replacement or glass repair work for which the glass broker retains a percentage of the claim.

(4) (a) A violation of subsection (1)(a) is an unfair and deceptive act under 30-14-103.

(b) A person engaged in the sale, repair, or replacement of automobile glass or in the business of automobile repair who violates subsection (1)(a) is also subject to the insurance fraud protection provisions of Title 33, chapter 1, part 12."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on January 20, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 4 (1/14/99) HB 121, HB 154, HB 156, HB 181, 1/8/1999
Executive Action: SB 4, HB 154, HB 156

Irene Theurer, AARP
{Tape : 1; Side : A; Approx. Time Counter : 227 - 233}

Selma Manley, Bozeman resident
{Tape : 1; Side : A; Approx. Time Counter : 233 - 280}

Judy Williams, Toston, MT
{Tape : 1; Side : A; Approx. Time Counter : 280 - 292}

Brad Griffin, Montana Direct Sales Assn. **EXHIBIT(4) EXHIBIT(5)**
{Tape : 1; Side : A; Approx. Time Counter : 292 - 303}

Opponents' Testimony: None

Questions from Committee Members and Responses:
Reps. Ewer, Stovall, Brown, Pavlovich, Simon question proponents.
{Tape : 1; Side : A; Approx. Time Counter : 303 - 500}

Closing by Sponsor: Rep. Krenzler closed HB 121.
{Tape : 1; Side : B; Approx. Time Counter : 0 - 43}

HEARING ON HB 154

Opening Statement by Sponsor: Rep. Gallus, HD 35 introduced HB 154. **EXHIBIT(6)**
{Tape : 1; Side : B; Approx. Time Counter : 43 - 71}

Proponents' Testimony:
Frank Cote, Dep. Insurance Commissioner, State Auditor Office.
{Tape : 1; Side : B; Approx. Time Counter : 71 - 98}

Tom DeBoer, Montana body shop owner.
{Tape : 1; Side : B; Approx. Time Counter : 98 - 123}

Ron Ashabrann, State Farm Insurance
{Tape : 1; Side : B; Approx. Time Counter : 123 - 129}

John Metropolis, Farmers Insurance Group
{Tape : 1; Side : B; Approx. Time Counter : 129 - 137}

Anne Bartos, Attorney for Dept. of Commerce
{Tape : 1; Side : B; Approx. Time Counter : 137 - 145}

Truman Strouf, MT Federation of Glass Dealers
{Tape : 1; Side : B; Approx. Time Counter : 145 - 150}

Mike Oliver, Enoco Glass
{Tape : 1; Side : B; Approx. Time Counter : 150 - 158}

Opponents' Testimony: None

Questions from Committee Members and Responses:
Reps. Lawson, Barnett, Bookout, Simon, Pavlovich, and Simon question proponents.
{Tape : 1; Side : B; Approx. Time Counter : 158 - 408}

Closing by Sponsor: Rep. Gallus closed HB 154.
{Tape : 1; Side : B; Approx. Time Counter : 408 - 500}

HEARING ON HB 156

Opening Statement by Sponsor: Rep. Tropila, HD 47 introduced HB 156. EXHIBIT(7)
{Tape : 2; Side : A; Approx. Time Counter : 0 - 22}

Proponents' Testimony:
Frank Cote, Deputy Insurance Commissioner, State Auditor's Office.
{Tape : 2; Side : A; Approx. Time Counter : 22 - 67}

Diane Clark, Butte, MT EXHIBIT(8)
{Tape : 2; Side : A; Approx. Time Counter : 67 - 188}

Larry Dryer, Helena banker
{Tape : 2; Side : A; Approx. Time Counter : 188 - 399}

Chuck Butler, Blue Cross and Blue Shield of Montana
{Tape : 2; Side : A; Approx. Time Counter : 399 - 481}

Don Allen, Montana Medical Benefits Plan
{Tape : 2; Side : A; Approx. Time Counter : 481 - 500}

Ray Gustafson,
{Tape : 2; Side : B; Approx. Time Counter : 0 - 19}

Craig Sweet, Montana Public Interest Group
{Tape : 2; Side : B; Approx. Time Counter : 19 - 45}

Kip Smith, Montana Primary Care Assn.
{Tape : 2; Side : B; Approx. Time Counter : 45 - 70}

EXECUTIVE ACTION ON SB4

Motion/Vote: REP. PAVLOVICH moved that SB 4 BE CONCURRED IN. Motion carried unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 167 - 178}

EXECUTIVE ACTION ON HB 154

Motion: REP. EWER moved that HB 154 DO PASS.
{Tape : 4; Side : A; Approx. Time Counter : 178 - 180}

Motion/Vote: REP. EWER moved that HB 154 BE AMENDED. Motion carried unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 180 - 186}

Motion/Vote: REP. EWER moved that HB 154 DO PASS AS AMENDED. Motion carried unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 186 - 188}

EXECUTIVE ACTION ON HB 156

Motion: REP. TREXLER moved that HB 156 DO PASS.
{Tape : 4; Side : A; Approx. Time Counter : 188 - 205}

Motion: REP. TUSS moved that HB 156 BE AMENDED.
{Tape : 4; Side : A; Approx. Time Counter : 205 - 210}

Motion/Vote: REP. BOOKOUT-REINICKE moved that HB 156 BE AMENDED split Tuss amendments. Motion carried unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 210 - 220}

Motion: REP. TUSS moved that HB 156 BE AMENDED.
Motion failed on voice vote.
{Tape : 4; Side : A; Approx. Time Counter : 220 - 228}

Motion/Vote: REP. TUSS moved that HB 156 DO PASS AS AMENDED. Motion carried unanimously.
{Tape : 4; Side : A; Approx. Time Counter : 228 - 245}

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FACT SHEET

EXHIBIT 6
DATE 1/20/99
HB 154

HB 154

CLARIFY PROHIBITIONS AGAINST AUTO REPAIR INCENTIVES.

HB 154 Accomplishes 3 Objectives:

1. Tightens the provisions on rebating of deductibles in the repair of glass and autobody.
2. Takes the present law that just applies to the rebating of deductibles for windshield replacement and has it also apply to autobody repairs.
3. Allows the State Auditor to enforce the provisions along with the Department of Commerce.

Why?

When a consumer purchases an insurance policy, he or she agrees to pay a portion of a claim, or a deductible. Consumers normally pay higher rates for lower deductibles. It is not fair to consumers who purchase more expensive policies with low deductibles for an auto repair facility or glass repair facility to rebate deductibles no matter how much they are.

In the end, all consumers pay the price for rebating through increased insurance premiums imposed to cover the costs of waived deductibles.

This bill brings such actions under the scrutiny of the State Auditor's Office in addition to the Department of Commerce. The outlawed practice involves rebating of an insurance deductible, which clearly falls under the jurisdiction of insurance regulation. In the past, the Department of Commerce and the State Auditor's Office have worked cooperatively to enforce such provisions, and passage of this bill will ensure such cooperation will continue.

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 4, 1999 at 9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)
Sen. Fred Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 121, 2/19/1999
HB 153, 2/19/1999
HB 154, 2/19/1999

Executive Action:

{Tape : 1; Side : A; Approx. Time Counter : 0}

unlicensed practice. If a consumer had a complaint he or she needed to notify them so it could be investigated; if no one complained, the Board wouldn't know about it. The law really wasn't being changed; rather, some of the definitions were clarified.

{Tape : 1; Side : B; Approx. Time Counter : 43.3}

Closing by Sponsor:

REP. HEDGES closed. The licensing requirements don't change what's been on the books and when we think of other professions, I think we want to continue these licensing requirements with that level of knowledge and competence in the pre-need area. Current law was intended to be that; the punctuation should be a semi-colon rather than a comma. This bill addresses the need to put the pre-need contract money into a Montana institution where it is insured so the people making the pre-need arrangements have a Montana guarantee the money will be there when it's needed.

{Tape : 2; Side : A; Approx. Time Counter : 0}

HEARING ON HB 154

Sponsor: REP. STEVEN J. GALLUS, HD 35, BUTTE

Proponents: REP. JOE QUILICI, HD 36, BUTTE
Gary Speeth, State Auditors Office
Jack Gregg, MT Collision Repair Specialists
Ron Ashabraner, State Farm Insurance
Annie Bartos, Chief Counsel, Department of Commerce
Debbie Berney, Professional Insurance Agents of MT
Steve Wilkinson, Northwest Glass
Pat Stroff, Billings
Mike Oliver, Billings

Opponents: Bob Gilbert, Cascade Auto Glass
Brad Nelson, Cascade Auto Glass
Dan Carter, Pinnacle Glass Co.

Opening Statement by Sponsor:

REP. STEVEN J. GALLUS, HD 35, BUTTE. I bring today **HB 154.** The goal of this bill is to clarify existing prohibitions against auto repair incentives. In 1997, there was a bill that was passed and this bill just elaborates on that one. There are three objectives of the bill. It tightens the provisions on rebating of deductibles for the repair of glass and auto bodies. It takes present law that just applies to the rebating of deductibles for windshield replacement and also applies it to auto body repairs. It allows the state auditor and the Department of Commerce to enforce these provisions.

Proponents' Testimony:

REP. JOE QUILICI, HD 36, BUTTE. This is one of the best bills I have seen that will really protect consumers and also protect Montana's small businesses. I have been in the glass business for over 40 years and feel that I can speak to it. I have never carried a glass bill in all the 30 years that I have been in the legislature. What has happened is that entities are coming into our localities. They have a lot of money behind them. They pick a person that has installed windshields. They train this person and then get paid so much an hour to work for them. They deliver the windshield to a garage, then they work with the insurance companies and install these windshields. They give rebates. That is fine, but some of these guys are working out of their own garage, paying their own personal property tax, but they don't have to pay their glaziers, their benefits and business property tax. If we don't do something, the small glass shops are going to be put out of business in this state.

Gary Speeth, Deputy State Auditor. The last 3-4 years I have been dealing with auto body and glass regulations in the State of Montana. This falls in my area of responsibility. We bring this bill for several reasons. First I would like to hand out a fact sheet **EXHIBIT(13)**. One reason we got involved is we receive many complaints and inquiries from insurance agents and consumers. We deal with other states that have similar laws about deductibility and rebating of your deductible. We looked at things that were changing particularly with the telemarketing aspect. The vast majority of shops do not give rebates for deductibility. Some of the newer shops do give something that looks like a cash consumer

discount. Every time I have a chance to look at a bill that an insurance company receives, there is generally a charge to the insurance company as a result of someone giving a cash incentive. We think it is a rebate and that is why this bill clarifies what an incentive is and what a rebate is. The most recent incident concerns a person who was charged $355, was given $100 as a cash incentive, and then the insurance company was billed $255. The insurance company paid $255 for the installation. I checked with a couple of other installers in the area and they would have billed the insurance company $205 for installing that glass minus $100 deductible which would make the insurance company pay $105 for the installation of the windshield. They ended up paying $100 more for the installation.

The other problem in our office as a result of these deals is that the consumers are calling frequently. One individual called and said they had a problem with a glass, but they decided to wait for spring and wouldn't have rock chips on the new windshield. But someone called the wife through telemarketing and convinced her to go ahead and do it. They installed the windshield the next day. It was not a good job. They called back but couldn't get anyone. Couldn't find them at the local address. So we feel this bill will take care of these sorts of problems. We feel the money to pay for these situations comes out of policy holders through their premiums.

{Tape : 2; Side : A; Approx. Time Counter : 8.2}

Jack Gregg, MT Collision Repair Specialists. We endorse this bill. It is an issue of fairness for both the repairers and the insurance companies and the body shops. We want the field to be level and have everyone playing by the same rules. Rebating, incentives or other things that affect the deductible is not good. That portion, the deductible, is between the insurer and the insured.

Ron Ashabraner, State Farm Insurance Co. I would like to thank the sponsor of this bill. We worked on this issue for many years. State Farm insures approximately 1/3 of the automobiles that are insured in the state. This is a good bill.

Annie Bartos, Chief Legal Counsel, Department of Commerce. We also support this bill. We have jointly enforced the provisions of the auto glass bill during the last year in a legal proceeding

and our offices concurrently believe that this is a consumer protection bill. Thank you for your support.

Debbie Berney, Professional Insurance Agents of MT. I have had an experience with glass repair myself. There was a $250 difference between an insurance payment and a cash rebate on a windshield. This costs every consumer in the state. We ask for your support of this bill.

Steve Wilkinson, Northwest Glass, Billings. I am President of the MT Independent Glass Dealers Assoc. The vast majority of our members do not pay deductibles. We want to compete for our hometown customers on a level and legal playing field.

Pat Stroff, Magic City Glass, Billings. I urge you to please support **HB 154**. It is vital to our survival.

Mike Oliver, Econo Glass, Billings. We are a glass distributor as well as installers. We believe this bill is good for the economy of Montana and all the customers we serve as a retail and as a wholesale entity. Thank you.

{Tape : 2; Side : A; Approx. Time Counter : 11.4}

Opponents' Testimony:

Bob Gilbert, Cascade Auto Glass. I understand the concerns that are out there. My clients don't believe in someone fixing auto glass in a garage either. That is an isolated incident. But there are other reputable glass dealers who want to operate in Montana and who want to advertise and promote and that is not illegal. Car dealers, grocery stores, hardware stores, etc. give rebates and discounts. That is part of being in the business. This bill is like saying that Sandy's Restaurant in the basement of the Capitol cannot give free coffee cups anymore because the restaurant over in the Department of Labor doesn't. And this would affect their business. This is what advertising is all about. If someone has a windshield replaced, the insurance company agrees to pay "X" amount with $100 deductible and the insured pays the $100 deductible, it is not wrong if the dealer wants to give the person a turkey. Is the Auditor's Office going to tell us that we can't do anything anymore? There is a problem but this bill is not the solution. We would be willing to work

with the sponsor to provide a better solution. The new language is very confusing. It needs clarification. There are statutes to enable prosecution of some of the cases that have been spoken of but the Department did not do that. I would suggest you table this bill or work together with the sponsor to make it work the way it should.

Brad Nelson, Cascade Auto Glass. We have locations in Missoula and Kalispell. You have received some phone calls and we did initiate those calls. We wanted people to contact their Senators. The concern that I heard from **REP. QUILICI** and others is that someone has to be paying for this. No one has a concern when it is just cash. The concern is when the insurance company becomes involved. When you buy a new car and talk price and there is a rebate involved, you encourage people to come in and negotiate. The concern of involving the insurance company is the thought that the cost will be passed on to the company and therefore on to the people they insure. I would like to hand out some fact sheets **EXHIBIT(14)**. The first two sheets you have already seen. On pages 3 and 4, the insurance companies tell us how much money they are going to pay for a particular job. In many cases they know more about glass, at least the financial aspects of glass, than many glass shops. They know down to the penny how much something is going to cost in order to get it replaced. A promotion for anything we are engaged in is being paid for by me. It comes out of my pocket. We are trying to attract business. **REP. QUILICI** said that people are being put out of business, but this piece of legislation does not address that issue and does not protect those people. People get better service and price with competition. For all these reasons, we oppose this bill.

Dan Carter, Pinnacle Glass Co. I am a third generation Montanan. Like many others in this room, my grandparents were offered an incentive to come west and homestead. The incentive was free land and they took it. I have been in business since 1981 and in the glass business in 1988. We have locations in Great Falls, Missoula, Billings and Butte. We are not an outside company. So the idea that outside businesses are driving out the local businesses is not true. The reason that this bill was brought forth was to clarify the previous bill that is in force right now. The previous bill was determined to be enough of a problem in enforcing the law, that the State Auditor's Office proposed this bill. It's title is "An Act to Clarify. . . I would

propose that it does nothing to clarify anything. The bill speaks to incentives. An incentive could be a guarantee, a promise to help with tax paper work, wash a car, pick up and delivery, or the smile on my face. The current law has not been enforced up to this date and this bill, as proposed, does nothing to clarify this.

{Tape : 2; Side : A; Approx. Time Counter : 19.4}

Questions from Committee Members and Responses:

SEN. VICKI COCCHIARELLA asked **Brad Nelson** about the telemarketing script that they used. **Mr. Nelson** said he did not have the actual wording but we asked them to identify themselves, to tell why they were calling, what **HB 154** would do concerning incentives and the repair of windshields and then to call their Senator and ask him to oppose the bill. Many of the people called had a number of questions. How those questions were answered was unknown. There were 12 people calling who did know the business of windshield repair. This is the first time that he had done this type of telemarketing and hoped that what he had done was fine. We did not target any specific group of people.

SEN. MIKE SPRAGUE asked **Annie Bartos** to clarify the difference between incentive and rebate. **Ms. Bartos** said that in a previous case that her Department had handled, the auto glass company was offering an incentive in buying back damaged, used glass and was paying $100 for this glass. (It was noted that there is no use for broken windshields.) This "incentive" was found by the hearing examiner to be a violation of the law that is in existence. That was classified as an incentive by the hearing examiner. In terms of a rebate, she felt that the $100 would be utilized to pay the deductible that the customer would need to pay to the insurance company.

SEN. SPRAGUE asked **Mike Oliver** if his company was a wholesale and retail company. **Mr. Oliver** said yes. **SEN. SPRAGUE** then asked if the price for windshields would be relatively the same at different shops unless he know that the dealer was a wholesaler as well as a retailer. **Mr. Oliver** said the purpose of their being a wholesaler is just to supply glass to the small shops. On the issue of shopping around for a good price, if a person has an insurance company which has approved vendors, which his

company is, they would say go have it done. The customer would pay the deductible and they would bill the insurance company the remainder of the bill based on the fixed rate which has already been established. This is the way he works with 90-95% of the insurance companies.

{Tape : 2; Side : A; Approx. Time Counter : 34.2}

SEN. DALE BERRY asked **Ron Ashabraner** if they have a standard price list for the replacement of different windshields. **Mr. Ashabraner** said that each company has worked out with the glass shops in the different geographical areas an arrangement that they would pay for different windshields. Since this is proprietary information, he had no idea what other companies pay. They survey an area, meet with the glass shops and come to an agreement on what the payment will be for different windshields, the kit, etc. It varies according to the car and to the area. The company wants to see that the shops get a fair price for their product. The incentive issue is where everyone here buys auto insurance. You pay a premium. Whether you want to call it a discount or rebate or whatever, his company does not feel that it is fair that a vendor of a product such as windshield glass, should give one of you something when all the rest of you have paid for it. Regardless of what you want to call it, someone is paying for it.

SEN. BERRY then asked when State Farm pays the glass company, are the people, who are giving out the rebates or incentives, collecting more from the insurance company than the installers who are just saying "no" here is the price and the client pays the deductible. **Mr. Ashabraner** said that it is based on the geographical location so they could accept less or they could make it more competitive. His company just wants to keep the shops in business. In some areas there is an artificial price to begin with. There are two major companies. Some will give us between a 65% discount and up. That is taken into consideration. We just reach an agreement with the shops.

SEN. COCCHIARELLA asked **Steve Wilkinson** that if the client has cash to pay for a new windshield, the cost is less. Then she asked if he has a set price that you charge and get reimbursed by the insurance company for glass. **Mr. Wilkinson** said the big insurance companies all pay a set price. They are not quite as

fair, they don't break it down by the geographical areas. The small shops cost more because they have to pay shipping, boxing, etc. They don't buy as much or install as many. So to stay in business in a small town, they have to charge more. Everything costs more in a small town. There are two prices in the glass industry. There is a cash price and then there is an insurance price. Not everyone does the same thing. When a shop does accept cash, they don't have to go through the billing process nor wait for the money.

SEN. COCCHIARELLA then said, is that not a discount? **Mr. Wilkinson** said "yes", they do discount cash prices.

SEN. COCCHIARELLA asked **Mr. Speeth** if a cash discount would be disallowed under this bill. **Mr. Speeth** said that the bill should not be a problem for a discount for cash. What this bill addresses is when a shop advertises that they will install the windshield as an insurance claim and they will do it for free and the customer does not have to pay anything out of pocket. Then there are different ways that the shop can do this. Sometimes insurance companies will call us up and tell us the customer has had the windshield installed before even contacting the insurance company. The insurance company will contact his office and say they feel the price is above market value in this area and what can they do about it. He tells them to deny the claim, but the insurance company responds that their client may get hassled by a collection agency, etc. and be unhappy with them. So it is not such a set price out there as everyone might like to believe. His department thinks the bill will solve a lot of these problems.

SEN. COCCHIARELLA wanted someone to show her where in the bill doesn't impact that discount ability. **Mr. Speeth** said they had looked at other states. In the enforcement action they have experienced a position taken on the other side that if they (lost a part of the sentence) If they don't use the word rebate then that can be a help. The comma in Section 1, a on line 17 and 18 can be a starting point.

{Tape : 2; Side : B; Approx. Time Counter : 0}

SEN. SPRAGUE asked **Mr. Carter** about cash discounts. Realizing that many people don't have comprehensive insurance, did he feel

that this bill eliminates the ability to negotiate. **Mr. Carter** said that the tenets of the previous bill was that the shops treat cash customers and insurance customers equally in the incentives. That has been carried forth. This bill does not want to get mired down in a pricing issue. There is not time to grapple with the pricing issue across this industry. This bill specifically addresses incentives. Everyone here seems to be confused. This is a bad bill and will only get worse. His smile, or he is from Montana, or because the shop picked up your car, etc., is now being looked at as a possible criminal act. Even more confusing is currently there are exemptions that are allowed.

SEN. FRED THOMAS asked **Mr. Carter** when he charges for glass, does he always use the same price. **Mr. Carter** said "no, absolutely not." Each insurance company uses their clout to force their price down our throats. **SEN. THOMAS** then asked if his company is not forced to pay so much, does he always use the same starting price. **Mr. Carter** said, there again, it depends on so many things.

{Tape : 2; Side : B; Approx. Time Counter : 3}

Closing by Sponsor:

REP. GALLUS closed. The key word in this bill is who these companies advertise. It is not how they conduct their business on a cash basis. It is how they lure people in. The offer of $100 to pay the deductible will bring people in. This bill address how they go about their marketing. Next, in response to some of the testimony, these cases are not isolated. It doesn't come out of the bottom line. It is out of all our premiums. Major corporations have the money to have lower prices for a period of time till they drive out smaller businesses. Then prices go up. This bill will protect lots of small businesses. I urge your support for this bill.

ADJOURNMENT

Adjournment: 11:45 A.M.

SEN. JOHN HERTEL, Chairman

MARY GAY WELLS, Secretary

JH/MGW

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SENATE BUSINESS & INDUST
EXHIBIT NO. 13
DATE 3-4-99
BILL NO. HB 154

FACT SHEET

HB 154

CLARIFY PROHIBITIONS AGAINST AUTO REPAIR INCENTIVES.

HB 154 Accomplishes 3 Objectives:

1. Tightens the provisions on rebating of deductibles in the repair of glass and autobody.
2. Takes the present law that just applies to the rebating of deductibles for windshield replacement and has it also apply to autobody repairs.
3. Allows the State Auditor to enforce the provisions along with the Department of Commerce.

Why?

When a consumer purchases an insurance policy, he or she agrees to pay a portion of a claim, or a deductible. Consumers normally pay higher rates for lower deductibles. It is not fair to consumers who purchase more expensive policies with low deductibles for an auto repair facility or glass repair facility to rebate deductibles no matter how much they are.

In the end, all consumers pay the price for rebating through increased insurance premiums imposed to cover the costs of waived deductibles.

This bill brings such actions under the scrutiny of the State Auditor's Office in addition to the Department of Commerce. The outlawed practice involves rebating of an insurance deductible, which clearly falls under the jurisdiction of insurance regulation. In the past, the Department of Commerce and the State Auditor's Office have worked cooperatively to enforce such provisions, and passage of this bill will ensure such cooperation will continue.

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SENATE BUSINESS & INDUST
EXHIBIT NO. 14
DATE 3-4-99
BILL NO. HB 154

Problems with HB-154; Senate Business and Industry 3-4-99

- HB-154 is unnecessary since insurance companies dictate how much they will pay to a glass facility for services performed. Glass shops can not bill a promotion to an insurance company because they will not pay the increased amount.

- HB-154 restricts commercial free speech.

- HB-154 is anti-consumer.

- HB-154 violates equal protection. It denies insurance clients of equal protection under the law, depriving them of any benefit that might be afforded to cash only customers.

- Existing glass facilities sponsor HB-154.

- HB-154 stifles competition. If passed, HB-154 will force people in Montana to pay more for automotive glass replacement. Ultimately, HB-154 would lead to higher insurance premiums.

- HB-154, as currently worded, would prevent a glass facility from offering any "valuable consideration." This could prevent mobile service and lifetime guarantees from being offered at the time of service. Carried to the extreme, even friendly service would be prohibited by HB-154.

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 8, 1999 at 10:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:
Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted:
Executive Action: HB 63; HB 121; HB 150; HB 154; HB 155; HB 171; HB 153

{Tape : 1; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 63

Motion: **SEN. COCCHIARELLA moved that HB 63 BE CONCURRED IN.**

SEN. BEA MCCARTHY will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 35.8}

EXECUTIVE ACTION ON HB 153

Motion/Vote: **SEN. COCCHIARELLA moved that HB 153 BE TABLED. Motion carried unanimously. 6-0**

{Tape : 1; Side : A; Approx. Time Counter : 42.2}

EXECUTIVE ACTION ON HB 154

Motion: **SEN. BERRY moved that HB 154 BE CONCURRED IN.**

Discussion: **Mr. Campbell** said that he had a note from **REP. GALLUS**, sponsor, asking to have an immediate effective date put on the bill.

Motion: **SEN. MCCARTHY moved that HB 154 BE AMENDED with an immediate effective date.**

Discussion: **SEN. SPRAGUE** said that some people may have money invested in advertisement or whatever for a promotion and he didn't want to unintentionally hurt someone. **Mr. Campbell** said that bills usually have an October 1 effective date unless there is a compelling reason to have another date. Most laws then take effect when people have them in their hands.

Vote: **Motion that HB 154 BE AMENDED with an immediate effective date failed 1-5 with SENATORS COCCHIARELLA, HERTEL, MCCARTHY, ROUSH, and SPRAGUE voting no.**

Vote: **Motion that HB 154 BE CONCURRED IN carried unanimously. 6-0**

SEN. DALE BERRY will carry the bill on the Senate Floor.

{Tape : 1; Side : B; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 155

Motion: **SEN. ROUSH moved that HB 155 BE CONCURRED IN.**

Discussion: Motion: **SEN. ROUSH moved that HB 155 BE AMENDED.**

Discussion: **Mr. Campbell** explained the amendments **EXHIBIT(bus52a03)**. These amendments were proposed as friendly amendments and were accepted by the sponsor. It just takes surety companies out of the bill. It leave the bill to address property-casualty policies.

Vote: **Motion that HB 155 BE AMENDED carried unanimously. 6-0**

Motion/Vote: **SEN. ROUSH moved that HB 155 BE CONCURRED IN AS AMENDED. Motion carried unanimously. 6-0**

SEN. GLENN ROUSH will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON B 171

Motion/Vote: **SEN. COCCHIARELLA moved that HB 171 BE CONCURRED IN. Motion carried unanimously. 6-0**

SEN. VICKI COCCHIARELLA will carry the bill on the Senate Floor.